

Town of Camden

Chapter XIII Wireless Telecommunications Facility Siting Ordinance

Adopted November 6, 2001 Special Town Meeting
Amended November 8, 2005 Special Town Meeting

WIRELESS TELECOMMUNICATIONS FACILITY SITING ORDINANCE

Section 1. AUTHORITY

This ordinance is adopted pursuant to the enabling provisions of Article VIII, Part 2, Section 1 of the Maine Constitution; the provisions of Title 30-A M.R.S.A. Section 3001 (Home Rule), and the provisions of the Planning and Land Use Regulation Act, Title 30-A M.R.S.A. Section 4312 et seq.

Section 2. PURPOSE AND INTENT

The purpose of this ordinance is to provide a process and a set of standards for the construction of wireless telecommunications facilities and to establish clear guidelines, standards and time frames for the exercise of municipal authority to regulate wireless telecommunications facilities. Additional objectives of this ordinance are as follows:

- Allow competition in telecommunications service;
- Permit and manage reasonable access to the public rights of way of the Town of Camden for telecommunications purposes on a competitively neutral basis;
- Ensure that all telecommunications carriers providing facilities or services within the Town of Camden comply with the ordinances of the Town of Camden;
- Ensure that the Town of Camden can continue to fairly and responsibly protect the public health, safety and welfare;
- Encourage the co-location of wireless telecommunications facilities, thus helping to minimize adverse visual impacts on the community;
- Further the goals and policies of the Comprehensive Plan, while promoting orderly development of the town with minimal impacts on existing uses;
- Protect the scenic and visual character of the community.

Section 3. APPLICABILITY

This section applies to all construction, expansion and co-location of wireless telecommunications facilities, except as provided in section 3.1

3.1 Exemption

The following activities and structures are exempt from the provisions of this Ordinance:

1. Wireless telecommunication facilities for communication by public officials, including specifically emergency communications.
2. Amateur (ham) radio stations licensed by the Federal Communications Commission (FCC).
3. Parabolic Antennas less than seven (7) feet in diameter.
4. Maintenance or repair of a wireless telecommunications facility and related equipment provided that there is no change in the height or any other dimension of the facility.
5. An antenna that is an accessory use to a residential dwelling unit.
6. Temporary wireless telecommunications facility, in operation for a maximum period of one hundred eighty (180) consecutive days in any twelve-month period.
7. Short term facilities for media or events for a maximum period of fourteen (14) consecutive days.
8. Wireless internet access equipment, provided the equipment is no larger than 5 feet in length, width and height.

Section 4. REVIEW AND APPROVAL AUTHORITY

No person shall construct or expand a wireless telecommunications facility without approval of the Planning Board or, the Code Enforcement Officer (CEO), as set forth below.

4.1 Expansion of an existing facility and co-location

Approval by the CEO is required for any expansion of a previously approved wireless telecommunications facility that increases the height of a building or structure for the facility by no more than 20 feet; accessory use for a previously approved wireless telecommunications facility; or co-location of a previously approved wireless telecommunications facility.

4.2 Location of antennas in existing buildings

Approval of the Planning Board is required for location of an antenna in an existing building.

4.3 New facilities

Approval of the Planning Board is required for construction of a new wireless telecommunications facility; and any expansion of a previously approved wireless telecommunications facility that increases the height of the facility by more than 20 feet.

4.4 Written findings

The Planning Board shall review applications for wireless telecommunications facilities, as set forth above, and make written findings in connection with the issuance or denial of permits for such facilities. Those written findings shall state whether the proposed facility complies with this ordinance.

Section 5. APPROVAL PROCESS

5.1 Application

Applicants shall meet with the CEO no less than 30 days prior to filing an application to the Planning Board. The purpose of this meeting shall be for the CEO to explain the ordinance requirements as well as application forms and required submissions. The application procedure shall be in accordance with Article XII, Site Plan Review, Section 2, Procedures, of the Town of Camden Zoning Ordinance. No tower owner or manager shall be permitted to submit an application if the tower owner does not have a signed agreement committing a commercial service provider to occupy space on the tower.

5.2 Submission requirements for CEO approval

Applications for permit approval by the CEO must include the following materials and information:

1. Documentation of the applicant's right, title, and interest in the lot where the facility will be sited, including the name and address of the landowner and the applicant.
2. A copy of the FCC license for the facility.
3. Identification of districts, sites, buildings, structures or objects, significant in American history, architecture, archaeology, engineering or culture, that are listed, or eligible for listing in the National Register of Historic Places (see 16 U.S.C. 470w(5); 36 CFR 60 and 800).
4. Location map and elevation drawings of the proposed facility, including any proposed structures, showing color, and identifying structural materials.

5. For proposed expansion of a facility, a signed statement that commits the owner of the facility, and successors in interest to:
 - a. respond in a timely, comprehensive manner to a request for information from a potential colocation applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;
 - b. negotiate in good faith for shared use by third parties;
 - c. allow shared use if a party proposing co-location agrees in writing to pay reasonable charges for co-location, and such co-location will not jeopardize the existing facility;
 - d. require no more than a reasonable charge for shared use, based on community rates and generally accepted accounting principles. This charge may include, but is not limited to a pro rata share of the cost of site selection, planning project administration, land costs, site design, construction and maintenance, financing, return on equity, depreciation, and all of the costs of adopting the tower or equipment to accommodate a shared user without causing electromagnetic interference.
6. A form of surety or other performance guaranty in an amount to pay for the costs of removing the facility if it is abandoned, which may include the following performance guaranties:
 - a. A certified check payable to the Town of Camden;
 - b. A savings account passbook issued in the name of the Town of Camden;
 - c. An irrevocable letter of credit from a financial institution; or
 - d. A performance bond running to the Town of Camden and issued by a surety company or insurance company licensed to do business in the State of Maine.

5.3 Submission requirements for locating antennas in existing buildings:

1. Documentation of the applicant's right, title, and interest in the lot where the facility will be sited, including the name and address of the landowner and the applicant.
2. A copy of the FCC license for the facility, or a signed affidavit from the owner or operator of the facility attesting that the facility will comply with FCC regulations.
3. A USGS 7.5 minute topographic map showing the current location of all structures and wireless telecommunications facilities above 150 feet in height from ground level, except antennas located on roof tops, within a five (5) mile radius of the proposed facility. This requirement shall be deemed to have been met if the applicant submits current information (i.e., within thirty days of the date the application is filed) from the FCC Tower Registration

Database. Include documentation of longitude and latitude.

4. A site plan:
 - a. prepared and certified by a professional engineer registered in Maine indicating the location, type and height of the proposed facility, antenna capacity, on-site and abutting off-site land uses, means of access, setbacks from property lines. The site plan must include certification by a professional engineer registered in Maine that the proposed facility complies with all American National Standards Institute (ANSI) codes.
 - b. certification by the applicant that the proposed facility complies with all FCC standards for radio emissions ; and
 - c. a boundary survey for the project performed by a land surveyor licensed by the State of Maine.
5. Elevation drawings of the proposed facility, and any other proposed structures, showing height above ground level.
6. A landscaping plan indicating the proposed placement of the facility on the site; location of existing structures, trees, and other significant site features; the type and location of plants proposed to screen the facility; the method of fencing, the color of the structure, and the proposed lighting method.
7. A written description of how the proposed facility fits into the applicant's telecommunications network. This submission requirement does not require disclosure of confidential business information.

5.4 New Facilities

1. Documentation of the applicant's right, title, and interest in the lot where the facility will be sited, including the name and address of the landowner and the applicant.
2. A copy of the FCC license for the facility, or a signed affidavit from the owner or operator of the facility attesting that the facility will comply with FCC regulations.
3. A USGS 7.5 minute topographic map showing the current location of all structures and wireless telecommunications facilities above 150 feet in height from ground level, except antennas located on roof tops, within a five (5) mile radius of the proposed facility. This requirement shall be deemed to have been met if the applicant submits current information (i.e., within thirty days of the date the application is filed) from the FCC Tower Registration Database. Include documentation of longitude and latitude.
4. A site plan:
 - a. prepared and certified by a professional engineer registered in Maine

indicating the location,

type and height of the proposed facility, antenna capacity, on-site and abutting off-site land uses, means of access, setbacks from property lines. The site plan must include certification by a professional engineer registered in Maine that the proposed facility complies with all American National Standards Institute (ANSI) codes.

b. certification by the applicant that the proposed facility complies with all FCC standards for

radio emissions ; and

c. a boundary survey for the project performed by a land surveyor licensed by the State of Maine.

5. Elevation drawings of the proposed facility, and any other proposed structures, showing height above ground level.

6. A landscaping plan indicating the proposed placement of the facility on the site; location of existing structures, trees, and other significant site features; the type and location of plants proposed to screen the facility; the method of fencing, the color of the structure, and the proposed lighting method.

7. A visual impact assessment by a qualified professional which shall include photo simulations of the proposed facility taken from perspectives determined by the Planning Board during the site plan review pre-application meeting pursuant to Article XII, Section 2 of the Zoning Ordinance. Each photo must be labeled with the line of sight, elevation, and with the date taken imprinted on the photograph. The photo must show the color of the facility and method of screening.

8.A narrative discussing:

a. the extent to which the proposed facility would be visible from or within a designated scenic resource,

b. the tree line elevation of vegetation within 100 feet of the facility, and

c. the distance to the proposed facility from the designated scenic resource's noted viewpoints.

9. A written description of how the proposed facility fits into the applicant's telecommunications network. This submission requirement does not require disclosure of confidential business information.

10. Evidence demonstrating that no existing building, site, or structure can accommodate the applicant's proposed facility for any of the following reasons:

a. no existing facilities are located within the targeted market coverage area as required to meet applicant's engineering requirements.

b. existing facilities do not have sufficient height or cannot be increased in

- height at a reasonable cost to meet the applicant's engineering requirements.
- c. existing facilities do not have sufficient structural strength to support applicant's proposed antenna and related equipment. Specifically:
- i. necessary equipment would exceed the structural capacity of the existing facility, considering the existing and planned use of those facilities, and these existing facilities cannot be reinforced to accommodate the new equipment.
 - ii. The applicant's proposed antenna or equipment would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna or equipment on the existing facility would cause interference with the applicant's proposed antenna.
 - iii. Existing or approved facilities do not have space on which planned equipment can be placed so it can function effectively.
- d. For facilities existing prior to the effective date of this Ordinance, evidence that the fees, costs, or contractual provisions required by the owner in order to share or adapt an existing facility are unreasonable. Costs exceeding the pro rata share of a new facility development are presumed to be unreasonable. This evidence shall also be satisfactory for a tower built after the passage of this Ordinance or amendment thereto.
11. A signed statement stating that the owner of the wireless telecommunications facility and successors and assigns agree to:
- a. respond in a timely, comprehensive manner to a request for information from a potential co-location applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;
 - b. negotiate in good faith for shared use of the wireless telecommunications facility by third parties;
 - c. allow shared use of the wireless telecommunications facility if an applicant agrees in writing to pay reasonable charges for co-location, and such co-location will not jeopardize the existing facility.
 - d. require no more than a reasonable charge for shared use, based on community rates and generally accepted accounting principles. This charge may include but is not limited to a pro rata share of the cost of site selection, planning project administration, land costs, site design, construction, financing, return on equity, depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference. The amortization of the above costs by the facility owner shall be accomplished at a reasonable rate, over the useful life span of the facility.
12. A form of surety or other performance guaranty approved by the Planning Board in an amount to pay for the costs of removing the facility if it is abandoned,

which may include the following performance guaranties:

- a. A certified check payable to the Town of Camden;
- b. A savings account passbook issued in the name of the Town of Camden;
- c. An irrevocable letter of credit from a financial institution acceptable to the Planning Board; or
- d. A performance bond running to the Town of Camden and issued by a surety company or insurance company licensed to do business in the State of Maine.

5.5 Submission waiver

The Planning Board may waive any of the submission requirements based upon a written request of the applicant submitted at the time of application. A waiver of any submission requirement may be granted only if the Planning Board finds in writing that due to special circumstances of the application, the information is not required to determine compliance with the standards of this Ordinance.

5.6 Fees

1. CEO Application Fee

An application for CEO approval shall include payment of an application fee as set annually by the Select Board. The fee is intended to cover the cost of the municipality's administrative processing of the application and similar costs. The application shall not be considered complete until this fee is paid. The applicant is entitled to a refund of the application fee if the application is withdrawn, less all expenses incurred by the Town of Camden to review the application.

2. Planning Board Application Fee

An application for Planning Board approval, as required by this ordinance, shall include payment of an application fee as set annually by the Select Board. The application shall not be considered complete until the fee is paid. The fee is intended to cover the cost of the municipality's administrative processing of the application, including notification, and similar costs. This fee shall not be refundable.

3. Planning Board Review Fee

- a. The Planning Board may hire any consultant and/or expert necessary to assist the Town in reviewing, analyzing and evaluating the application, including the construction and modification of the site, once permitted, and any requests for recertification.
- b. An applicant shall deposit with the Town, funds sufficient to reimburse the Town for all reasonable costs of a consultant and any expert evaluation and consultation to the Planning Board in connection with the review of any application, including the construction and modification of the site, once permitted. The initial deposit shall be \$8,500.00, which deposit is not a fee. The placement of the \$8,500 with

the Town shall precede the pre-application meeting. The Town will maintain a separate escrow account for all such funds. Consultants shall invoice the Town for services in reviewing the application, including the construction and modification of the site, once permitted, and the Town shall use this escrow to pay the consultant.

- c. If at any time during the process the escrow account has a balance less than \$2,500.00, the applicant shall immediately, upon notification by the Town, replenish said escrow account so that it has a balance of at least \$5,000.00. Such additional escrow funds shall be deposited with the Town before any further action or consideration is taken on the application. In the event that the amount held in escrow by the Town is more than the amount of the actual invoicing at the conclusion of the project, the remaining balance shall be promptly refunded to the applicant.
- d. The total amount of the funds needed as set forth in subsection (b) of this section may vary with the scope and complexity of the project, the completeness of the application and other information as may be needed to complete the necessary review, analysis and inspection of any construction or modification.

5.7 Public hearing

For applications requiring Planning Board approval under Section 4.2, a public hearing shall be held within
forty-five (45) days of the notice of a complete application.

5.8 Approval

1. CEO Approval

Within thirty (30) days of receiving a complete application for approval under Section 4.1, the CEO shall approve, approve with conditions or deny the application in writing, together with the findings on which the denial is based. The CEO shall approve the application if it complies with the provisions of Section 7.1. The time period may be extended upon agreement between the applicant and the CEO.

2. Planning Board Approval

Within ninety (90) days of receiving a complete application for approval under Section 4.2, the Planning

Board shall approve, approve with conditions, or deny the application in writing, together with the findings

on which that decision is based. The CEO shall then issue a building permit, provided the application

complies with all provisions of the Zoning Ordinance.

Section 6. SITE RESTRICTIONS

1. New wireless telecommunications facilities shall be permitted only in the following districts set forth in

the Zoning Ordinance for the Town of Camden; provided, however, that such facility shall also be

permitted as set forth in Section 6 (2) below:

A new facility on public or private property in the following zoning districts:

- a. Rural 1 District, east of Camden Hills State Park;
- b. Rural 2 District.

2. In addition to wireless telecommunications facilities in the zoning districts set forth above, a new wireless telecommunications facility shall also be permitted in all other zoning districts for the Town of Camden in the following circumstances:

a. co-location as part of a previously approved wireless telecommunications facility subject to issuance

of a permit by the CEO as set forth in Section 4.1 above; or

- b. location of an antenna in an existing structure, such as (for purposes of illustration) a church steeple, silo, or multi-story building, with no indication or display of equipment outside that existing structure.

Section 7. STANDARDS OF REVIEW

To obtain approval from the CEO or the Planning Board, an application must comply with the standards in this section.

7.1 CEO Approval Standards

An application for approval by the CEO under Section 4.1, must meet the following standards:

1. The proposed facility is an expansion that increases the height of the previously approved structure by no

more than 20 feet.

2. The applicant has sufficient right, title, or interest in the previously approved structure or the existing

structure to make the application for approval from the CEO.

3. The proposed structure for the addition to the previously approved facility or structure shall be constructed

of materials and colors that match or blend with the existing or previously approved structure.

4. The proposal set forth in the application shall meet the requirements set forth in section 5.2 (5) and (6) of

this Ordinance.

7.2 Planning Board Approval Standards

An application for approval by the Planning Board under *Section 4.3 New Facilities*, shall meet the following standards. An application under section *4.2 Location of Antennas in Existing Buildings*, shall meet standards 6, 7, 8, 9 and 13 only.

1. *Preference for Co-location and Location of an Antenna in an Existing Structure*

To the extent practical, as determined by the Planning Board, new wireless telecommunication

facilities shall be located or configured in the following manner in each zoning district of the Town of

Camden where such use is allowed. The applicant shall demonstrate that the preferences below cannot

reasonably accommodate the applicant's proposed facility.

a. co-location of such a facility in connection with or as part of an existing wireless telecommunications facility; and

b. an antenna located in an existing structure such as (for purposes of illustration) a church

steeple, silo or multi-story building, with no indication or display of equipment outside

that existing structure.

2. *Siting on Municipal Property*

If an applicant proposes to locate a new wireless telecommunications facility, or expand (if such an

expansion exceeds the expansion permitted with CEO approval) an existing facility on municipal

property, the applicant shall show the following:

a. The proposed location complies with applicable municipal policies and ordinances.

b. The proposed facility will not interfere with the intended purpose of the property.

c. The applicant has adequate liability insurance and a lease agreement with the municipality that

includes reasonable compensation for the use of the property and other provisions to safeguard the public rights and interests in the property.

3. *Design for Co-location*

A new wireless telecommunications facility and related equipment must be designed and constructed to accommodate expansion for future co-location of at least three additional wireless telecommunications facilities or providers. However, the Planning Board may waive or modify this standard where the height limit effectively prevents future colocation.

4. Height

The maximum height of a structure for a wireless telecommunications facility shall be no more than 190 feet, including the height of the antenna (see definition of height in the Ordinance).

5. Setbacks

Unless waived or relaxed by the Planning Board, a structure or building for a new or expanded wireless

telecommunications facility shall comply with the setback requirements for the zoning district in which

it is located, or be set back one hundred five percent (105%) of its height from all property lines,

whichever is greater. The setback may be satisfied by including the areas outside the property

boundaries if secured by an easement, acceptable to the Planning Board. A waiver or relaxation of a setback requirement may be granted by the Planning Board upon a showing by the applicant that the facility is designed to collapse in a manner that will not harm other property outside the boundaries of the parcel of land on which the wireless telecommunications facility is located. An antenna is exempt from the setback requirement if it extends no more than five (5) feet horizontally from the edge of the structure to which it is attached and it does not encroach upon an abutting property.

6. Landscaping

A new wireless telecommunications facility and related equipment shall be screened with plants from

view by abutting properties, to the maximum extent practicable. Existing plants and natural land forms

on the site shall also be preserved to the maximum extent practicable.

7. Fencing

A new wireless telecommunications facility shall be fenced to discourage trespass on the facility and to discourage climbing on any structure by trespassers. Such fencing shall include a gate on the access road when deemed appropriate by the Planning Board.

8. Lighting

A new wireless telecommunications facility shall be illuminated only as necessary to comply with FAA

or other applicable state and federal requirements. However, security lighting may be used as long as it

is shielded to be down-directional to retain light within the boundaries of the site, to the maximum extent practicable.

9. Color and Materials

A new wireless telecommunications facility shall be constructed with materials

and colors that match or blend with the surrounding natural or built environment, to the maximum extent practicable. Unless otherwise required by the Planning Board, muted colors, earth tones and subdued hues shall be used.

10. *Structural Standards*

A new wireless telecommunications facility must comply with the current Electronic Industries Association/Telecommunications Industries Association (EIA/TIA) 222 Revision Standard entitled “Structural Standards for Steel and Antenna Towers and Antenna Supporting Structures.”

11. *Visual Impact*

The proposed wireless telecommunications facility will have no unreasonable adverse impact upon designated scenic resources within the Town, as identified either in the Town’s Comprehensive Plan, as that Comprehensive Plan may be amended from time to time, or identified as a designated scenic resource in Exhibit A attached to this Ordinance and incorporated by reference herein. In determining the potential unreasonable adverse impact of the proposed facility upon the designated scenic resources, or resource, the Planning Board shall consider the following factors:

- a. the extent to which the proposed wireless telecommunications facility is visible above the tree line, from the viewpoint(s) of the impacted designated scenic resource as viewed from the public road, public land or public waterway;
- b. the type, number height, and proximity of existing structures and features, and background features within the same line of sight as the proposed facility;
- c. the extent to which the proposed wireless telecommunications facility would be visible from
the viewpoint(s) set forth in (a) above;
- d. the amount of vegetative screening;
- e. the distance of the proposed facility from the viewpoint of the designated scenic resource and the facility’s location within the designated scenic resource;
- f. the evidence set forth in the visual impact assessment submitted with the application
pursuant to Section 5.3 (7) above and any conclusions based upon that visual impact
assessment;
- g. the presence of reasonable alternatives that allow the facility to function consistently with its
purpose.

12. *Access Roadways*

All access roadways shall be designed to harmonize with the topographic and natural features of the site insofar as practical by minimizing filling, grading,

excavation, or other similar activities which result in unstable soil conditions and soil erosion, by fitting the development to the natural contour of the land and avoiding substantial areas of excessive grade and tree removal, and by retaining existing vegetation.

The design shall take all practical steps possible to prevent a visible scar up or across a ridgeline visible from public streets, roads, or water bodies.

13. Historic & Archaeological Properties

The proposed facility, to the greatest degree practicable, shall have no unreasonable adverse impact

upon districts, sites, buildings, structures or object, significant in American history, architecture,

archaeology, engineering or culture, that are listed, or eligible for listing, in the National Register of

Historic Places (see 16 U.S.C. 470w(5); 36 CFR 60 and 800).

7.3 Standard Conditions of Approval

The following standard conditions of approval shall be a part of any approval or conditional approval issued by the CEO or Planning Board. Where necessary to ensure that an approved project meets the criteria of this ordinance, the Planning Board can impose additional conditions of approval. Reference to the conditions of approval shall be clearly noted on the final approved site plan and shall include:

1. The owner of the wireless telecommunications facility and successors and assigns agree to:
 - a. respond in a timely, comprehensive manner to a request for information from a potential colocation applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;
 - b. negotiate in good faith for shared use by third parties;
 - c. allow shared use if an applicant agrees in writing to pay reasonable charges for co-location, and such co-location will not jeopardize the existing facility;
 - d. require no more than a reasonable charge for shared use, based on community rates and generally accepted accounting principles. This charge may include but is not limited to a pro rata share of the cost of site selection, planning project administration, land costs, site design, construction and maintenance, financing, return on equity, depreciation, and all of the costs of adopting the tower or equipment to accommodate a shared user without causing electromagnetic interference.
2. Upon request by the Planning Board, the applicant shall certify compliance with all applicable FCC radio frequency emissions regulations.

Section 8. AMENDMENT TO AN APPROVED APPLICATION

Any changes to an approved application shall be approved by the CEO or the Planning Board, in accordance with the Zoning Ordinance, Article XII, Section 8.

Section 9. ABANDONMENT

A wireless telecommunications facility that is not operated for a continuous period of twelve (12) months shall be considered abandoned. The CEO shall notify the owner of an abandoned facility in writing, certified mail return receipt requested, ordering the removal of the facility within ninety (90) days of receipt of a written notice. The owner of the facility shall have thirty (30) days from the receipt of the notice to demonstrate to the CEO that the facility has not been abandoned.

If the Owner fails to show that the facility has not been abandoned, the owner shall have sixty (60) days to remove the facility. If the facility is not removed within this time period, the municipality shall remove the facility at the owner's expense. The owner of the facility shall pay all site reclamation costs deemed necessary and reasonable to return the site to its pre-construction condition, including the removal of roads, and reestablishment of vegetation.

If a surety has been given to the Town to ensure removal of the facility, the owner of the facility may apply to the Planning Board for release of the surety when the facility and related equipment are removed to the satisfaction of the Planning Board, and all costs have been paid. Any balance of funds remaining after the land has been returned to the pre-construction condition shall be returned to the owner by the Planning Board.

If a surety has been given to the Town and the costs of removal exceeds the surety, the owner of the facility shall be responsible for payment of the additional costs to the Town, such payment to be made within 14 days of the request by the Town for payment.

Section 10. APPEALS

Any person aggrieved by a decision of the CEO or the Planning Board under this Ordinance may appeal the decision to the Zoning Board of Appeals, as an administrative appeal under the Zoning Ordinance. Written notice of the appeal shall be filed within 45 days of the date of a written decision by the Planning Board and within 45 days of the date of a written decision by the CEO. The notice of appeal shall clearly state the reasons for the appeal. The review of the Zoning Board of Appeals shall be based exclusively on the record of the Planning Board. An appeal of a decision of the CEO shall be *de novo* (requiring an evidentiary hearing).

Section 11. ENFORCEMENT

This ordinance shall be enforced pursuant to the provisions of the Zoning Ordinance. Any person who owns or controls any building or property in violation of this ordinance shall be subject to a penalty in accordance with Title 30-A M.S.R.S. §4452. Each day such a violation continues after written notification by the CEO shall constitute a separate offence.

Section 12. CONFLICT WITH OTHER ORDINANCES

Whenever a provision in the ordinance conflicts with or is inconsistent with another provision of this ordinance or of any other ordinance, regulation, or statute, the more restrictive provision shall apply.

The invalidity of any part of this ordinance shall not invalidate any other part of this ordinance.

Section 13. DEFINITIONS

All words not defined herein or in the Zoning Ordinance shall carry their customary and usual meanings. Words used in the present tense shall include the future. Words used in the singular shall include the plural and vice versa. The word “shall” is used to indicate the mandatory and the word “may” is used to indicate the permissive.

Antenna: Any system of poles, panels, rods, reflecting discs or similar devices used for the transmission or reception of radio or electromagnetic frequency signals.

Antenna height: The vertical distance measured from the average original grade of the ground adjoining the foundation or base of the structure to the highest point of the structure, even if said highest point is an antenna. Measurement of tower height shall include antenna, base pad, and other appurtenances and shall be measured from the average original grade of the facility site.

Co-location: The use of a wireless telecommunications facility by more than one wireless telecommunications provider.

Designated scenic resource: That specific location, view or corridor, which is identified as a scenic resource in the Town’s Comprehensive Plan, as that Comprehensive Plan may be amended from time to time, or a scenic resource set forth in Exhibit A attached to this Ordinance and incorporated by reference herein; such scenic resource shall consist of:

1. a three dimensional area extending out from a particular viewpoint on a public way or within a public recreational area, focusing on a single object, such as a mountain, a lake, or a bay, or a group of objects, such as a downtown skyline or mountain range, or island, resulting in a panoramic view corridor; or
2. lateral terrain features such as valley sides or woodland as observed to either side

of the observer, constraining the view into a narrow or particular field, as seen from a viewpoint on a public way or within a public recreational area.

Expansion of a wireless telecommunication facility: The addition of towers, increased height and/or increased foot prints of any buildings or structures of the existing facility.

FAA: Federal Aviation Administration or its lawful successor.

FCC: Federal Communications Commission, or its lawful successor.

Height of structures for a wireless telecommunication facility: The vertical measurement from a point on the ground at the average original grade adjoining the foundation.

Historic or Archeological Resources:

1. Listed individually in the National Register of Historic Places or eligible for listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs approved by the Secretary of the Interior;
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by the Secretary of the Interior through the Maine Historic Preservation Commission; or
5. Areas identified by a governmental agency such as the Maine Historic Preservation Commission as having significant value as an historic or archeological resource and any areas identified in the municipality's comprehensive plan, which have been listed or are eligible to be listed on the National Register of Historic Places.

Historic District: Lots identified as historic and so identified on the Historic Areas Overlay Map in the Code Enforcement Office.

Historic Landmark: Any improvement, building or structure of particular historic or architectural significance to the Town relating to its heritage, cultural, social economic or political history, or which exemplifies historic personages or important events in local, state or national history identified in the municipality's comprehensive plan, which have been listed or are eligible to be listed on the National Register of Historic Places.

Line of sight: The direct view of the object from the designated scenic resource.

Parabolic antenna (also known as a **Satellite dish antenna**): An antenna which is bowl-

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